

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KEITH E. BRAKES,

Petitioner,

v.

MARGARET GILBERT,

Respondent.

CASE NO. 16-cv-05120 RJB JRC

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

The Court, having reviewed the Report and Recommendation of Magistrate Judge J. Richard Creatura, objections to the Report and Recommendation (Dkt. 12), and the remaining record, does hereby find and **ORDER:**

(1) The Court **ADOPTS** the Report and Recommendation (Dkt. 11).

(2) Petitioner's objections are addressed in the Report and Recommendation and do not provide a basis to not adopt the Report and Recommendation.

(3) Respondent's Motion to Dismiss For Lack of Jurisdiction and Untimeliness Under 28 U.S.C. 2244(d) (Dkt. 8) is **GRANTED** and the Petition for Writ of Habeas Corpus (Dkt. 3) is **DISMISSED**.

(4) The Certificate of Appealability is **DENIED**.

1 The Clerk is directed to to send uncertified copies of this Order to all counsel of record  
2 and to any party appearing *pro se* at said party's last known address.

3 **DATED** this 11<sup>th</sup> day of July, 2016.

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6 ROBERT J. BRYAN  
7 United States District Judge  
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